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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF WASHINGTON

7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 v.

10 DANIEL PARKS CONANT, JR.,

11 Defendant.

NO: 2:19-CR-0128-TOR

PROTECTIVE ORDER RELEASING  
MEDICAL INFORMATION

12 BEFORE THE COURT are Defendant's Motion for a Protective Order  
13 Releasing Medical Personnel from HIPAA and Motion to Expedite the same. ECF  
14 Nos. 33, 34. The motions were submitted for consideration without oral argument.  
15 The United States has not responded to the motion. According to the Defendant,  
16 "[t]he Government takes no position on this motion." ECF No. 33 at 2. The Court  
17 has reviewed the file and the records therein and is fully informed.

18 **BACKGROUND**

19 Defendant is charged with Assault with a Dangerous Weapon in Indian  
20 Country in violation of 18 U.S.C. §§ 113(a)(3) (count 1), and Assault Resulting in

1 Substantial Bodily Injury to a Spouse, Intimate Partner, or Dating Partner in Indian  
2 Country in violation of 18 U.S.C. §§ 113(a)(7) (count 2). ECF No. 1. These  
3 crimes are alleged to have occurred on or about June 25, 2019. *Id.* The victim,  
4 A.C., received medical care at the Mid Valley Hospital, Confluence Health Clinic,  
5 Indian Health Services. ECF No. 33 at 2. Three doctors provided initial and  
6 aftercare, including DO Ronald McCluskey, DO Mark Tosca and Dr. Elizabeth  
7 Avena. *Id.* Defendant now moves the Court for an order releasing treating staff,  
8 including DO Ronald McCluskey, DO Mark Tosca and Dr. Elizabeth Avena from  
9 HIPPA obligations and confidentiality concerns related to A.C. surrounding the  
10 allegations and injuries contained in the indictment.” *Id.*

## 11 **DISCUSSION**

12 According to 45 C.F.R. § 164.512(e)(1)(i), a covered entity may disclose  
13 protected health information in the course of any judicial proceeding “[i]n response  
14 to an order of a court . . . provided that the covered entity discloses only the  
15 protected health information expressly authorized by such order.” Such disclosure  
16 must be subject to a “qualified protective order” as set forth in § 164.512(e)(1)(v)  
17 that:

18 (A) Prohibits the parties from using or disclosing the protected health  
19 information for any purpose other than the litigation or proceeding for  
20 which such information was requested; and

1 (B) Requires the return to the covered entity or destruction of the  
2 protected health information (including all copies made) at the end of  
the litigation or proceeding.

3 Because the Indictment alleges the assault resulted in “substantial bodily  
4 injury” (an element of the crime), the protected health information is necessarily  
5 relevant and material to this proceeding.

6 Accordingly, Defendant’s motion is granted.

7 **ACCORDINGLY, IT IS HEREBY ORDERED:**

8 1. Defendant’s Motion for a Protective Order Releasing Medical  
9 Personnel from HIPAA and Motion to Expedite the same, ECF Nos. 33, 34, are  
10 **GRANTED.**

11 2. Mid Valley Hospital, Confluence Health Clinic, Indian Health  
12 Services and DO Ronald McCluskey, DO Mark Tosca and Dr. Elizabeth Avena are  
13 hereby authorized to release protected health information of alleged victim A.C.  
14 **only concerning the injuries and treatment she received on or about June 25,**  
15 **2019 and thereafter, arising from the alleged assault she received on June 25,**  
16 **2019. Such information shall not include any other health issue, condition or any**  
17 **other privacy protected information concerning victim A.C.**

18 3. Defendant’s attorneys, the Federal Defenders of Eastern Washington and  
19 Idaho, including Andrea George and her agents and investigators, are authorized to  
20 receive such protected health information **ON THE CONDITION** that they are


1 prohibited from using or disclosing the protected health information for any  
2 purpose other than the litigation or proceeding for which such information was  
3 requested (this case only); and are required to return the information to the covered  
4 entity or destroy the protected health information (including all copies made) at the  
5 end of the litigation or proceeding.

6 4. Defendant's attorneys, the Federal Defenders of Eastern Washington and  
7 Idaho, is responsible for serving a copy of this Protective Order upon Mid Valley  
8 Hospital, Confluence Health Clinic, Indian Health Services and DO Ronald  
9 McCluskey, DO Mark Tosca and Dr. Elizabeth Avena, prior to receiving any  
10 protected health information of the alleged victim A.C.

11 The District Court Executive is directed to enter this order and provide  
12 copies to counsel.

13 DATED February 7, 2020.



  
THOMAS O. RICE  
Chief United States District Judge